

Agreement

THIS AGREEMENT is made and entered into this 6 day of August, 2010, by and between the City of Ankeny, Iowa (hereinafter the "City") and Matthew W. and Terri L. Andres, property owner (hereinafter "Owner"), who owns property described as follows, locally known as 711 NE Liberty Court, Ankeny, IA 50021.

Lot 1 Northbrook Plat 8

WHEREAS, Fourmile Creek is within the Owner's property and traversing land adjacent to the Owner's property; and

WHEREAS, Fourmile Creek streambank is eroding the Owner's property; and

WHEREAS, the City Council of the City has determined that it is in the best interests of the City and for the health, safety, and welfare of its residents, that the City should participate in streambank stabilization improvements and has included the Fourmile Creek Bank Stabilization in the 2010-2014 Capital Improvements Program for construction in 2012; and

WHEREAS, Owner has requested they be allowed to construct the streambank stabilization improvements on their property in advance of the City's 2012 timetable at their own expense, with reimbursement by the City in 2012; and

WHEREAS, the City Council of the City has determined that it is in the best interests of the City and for the health, safety, and welfare of its residents, that the City should participate in the stream bank stabilization improvements as requested.

NOW, THEREFORE, the parties agree as follows:

1. Owner's Participation. The Owner will undertake the streambank stabilization improvements. Specifically, the Owner will construct, own and maintain creek bank reshaping, gabion baskets and deep-rooted vegetation along the westerly bank of Fourmile Creek as it traverses through the Owner's property.
2. City's Participation. The City will reimburse the Owner for the actual costs of the improvements, not to exceed \$36,000, payable in July 2012.

3. Design and Construction Standards. The City will review and approve the proposal in advance of construction to confirm that the work generally conforms to the Iowa Statewide Urban Design and Specifications (SUDAS) or other generally accepted engineering practices for streambank stabilization. Owner shall not construct said improvements until the scope of work and this Agreement has been approved.
4. Limitation. There are no intended third-party beneficiaries to this Agreement. The City's obligations are limited to those specifically set forth herein. Owner agrees to, and shall, hold the City harmless from and indemnify the City from and against any liability from any claim whatsoever, including the cost of defense, arising out of or related to the construction of the improvements.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date above first written.

City of Ankeny, Iowa

By: _____
Steven D. Van Oort, Mayor

Attest:

By: _____
Pamela DeMouth, City Clerk

Property Owner

By: _____
Matthew W. Andres

By: _____
Terri L. Andres